

NEW HAMPSHIRE LAW LIBRARY

1951

SEP 03 1998

November 29

CONCORD, N.H.

Robert B. Buckley, Esq.,
City Solicitor,
Claremont, New Hampshire

Dear Mr. Buckley:

The Fire Marshal has asked me to reply to your letter dated November 20, 1951, addressed to the Board of Fire Control.

You have asked, first, whether the rules and regulations of the Board of Fire Control require adoption by a municipality to become applicable to publicly owned property, in view of the phrase stating that the rules promulgated on January 4, 1949, shall apply to the "state, city or town" adopting them. In my opinion, adoption of the rules by a municipality is not necessary to render them applicable to publicly-owned property.

C. 175-A, s. 1, II, of the Revised Laws, as inserted by Laws of 1947, c. 251, defines "building" to mean any structure, etc., public or private, and subsections III, IV and V of this section contain definitions which, by their generality, are apparently intended to include municipal corporations.

S. 12 of c. 175-A indicates that the rules are intended to apply to municipal corporations not having adequate laws and ordinances on the subject. This section also provides that any municipality may adopt the rules and regulations of the board. It is therefore my opinion that the rules and regulations apply to a municipal corporation unless and until the municipality adopts the same or equally satisfactory measures.

In spite of this conclusion, the State Board favors adoption of the rules by cities, towns, village districts and precincts, believing this action to be conducive to the improvement of public safety and the focusing of public attention upon the problem.

You have further asked whether drums for storage of fuel are subject to the rules promulgated on July 1, 1950, if the drums are not connected to heating apparatus. My answer is that such storage facilities are within the scope of the rules.

Robert B. Buckley, Esq.

- 2 -

November 29, 1951

It is true that section 1, Rule 1 (f) defines oil-burning equipment as meaning oil burners and all tanks, etc. connected to the burner. However, this definition is believed not to reduce the scope of section 4, Rules 10-14, in which there is no suggestion that the requirements apply only to tanks connected to a burner.

Very truly yours,

Maurice M. Blodgett
Deputy Attorney General

MMB:HP

CC: Board of Fire Control



CITY SOLICITOR'S OFFICE

November 20, 1951

New Hampshire Board of Fire Control
Office of the Fire Marshal
Concord, New Hampshire

Gentlemen:

The Chief of the Claremont Fire Department consulted me today with reference to the rules and regulations promulgated by your board on January 4, 1949 and July 1, 1950.

The Chief was concerned with the question whether the various rules and regulations of your board should be adopted in any manner by our city government. He raised this question because of the provisions of paragraph a, Rule 1 of the 1949 rules referred to which state in part that the rules are applicable "to the state, city or town adopting these rules and regulations". In view of the fact that paragraph q of Rule 2 defines a building to mean any building, whether public or private, it would appear that it might be the intention of your board to have the rules apply to public properties if the rules were adopted by some public authority which owns properties to which the rules could be applicable. On the other hand, this interpretation seemed to be rather inconsistent with the intention behind the statute under which these rules are promulgated.

Furthermore, it did not seem that it was necessary for any municipality to adopt the rules and regulations in order to make them effective locally in view of the breadth of coverage for your rules.

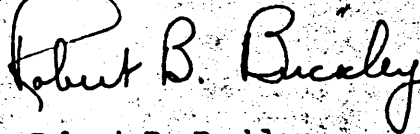
It would be much appreciated if you would clarify for us the question whether the rules of your board are applicable to public authorities even though the rules may not be adopted by local public bodies, and whether you feel that it is necessary for municipalities to take action to adopt your rules and regulations to facilitate local enforcement.

The Chief consulted me in the first instance on the question of the storage of oil in containers which he believed to be subject to the rules promulgated July 1, 1950. We have a situation here where the occupants of tenements store fuel oil in drums in places which are hazardous but which are convenient for the tenants. The drums are not connected with any heating apparatus, but are used for storage purposes only, and oil is drawn from them when needed for the purpose of servicing heaters and other oil burning units within a particular apartment. The Chief has taken the position that the storage of oil in such containers above the lowest story of a building is

contrary to your regulations. However, in examining the regulations it would appear that the rule with respect to storage tanks which is covered by Section 4, has to do only with tanks connected with oil burners. If my interpretation is correct, it would appear that the rules which he has in his possession do not cover the particular situation with which he is confronted.

We would like to have your comment on this matter so that our Chief of the Fire Department may proceed in the future knowing whether he has the authority of your board to act in a given situation.

Very truly yours,

A handwritten signature in cursive script, reading "Robert B. Buckley". The signature is written in dark ink and is positioned above the typed name.

Robert B. Buckley
City Solicitor

RBB:ds